

REMARKS

Claims 30, 32, 34, 36-38, 40-42, 47 and 48 have been amended. Claims 29 and 43-46 have been canceled. Applicants reserve the right to pursue the original or any other claims in this or in other applications. Claims 30-42, 47 and 48 are now pending in this application.

Claim 45 stands objected to based on certain informalities. Claim 45 has been canceled and thus, Applicants respectfully request that the objection be withdrawn.

Claim 41 stands rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification. Claim 41 has been amended and thus, no longer recites the limitation "a free ferromagnetic layer." Applicants have addressed the concerns of the Office Action. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 29-40 and 42-44 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yates (U.S. Patent No. 6,743,641). The rejection is respectfully traversed.

Claims 29, 43 and 44 have been canceled, thus the rejection is no longer applicable to claims 29, 43 and 44. Claims 30-40 and 42 depend from claim 47. Claim 47 recites a magnetic random access memory cell comprising, *inter alia*, "[a] second magnetic layer comprising: a second plurality of films including a ferromagnetic material adjacent said nonmagnetic tunnel barrier layer, a tantalum film adjacent said ferromagnetic material, and; a chemical mechanical polishing stop arranged to protect said second magnetic layer, wherein said chemical mechanical polishing stop is an oxide." As articulated by the Office Action, Yates fails to disclose, teach or suggest a memory cell comprising "a second magnetic layer separated from said first magnetic layer by said nonmagnetic tunnel barrier layer, said second magnetic layer comprising:

a second plurality of films including a ferromagnetic material adjacent said nonmagnetic tunnel barrier layer, a tantalum film adjacent said ferromagnetic material, and; a chemical mechanical polishing stop arranged to protect said second magnetic layer, wherein said chemical mechanical polishing stop is an oxide.” (Office Action at 10). Therefore, Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Claims 45 and 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lee (U.S. Patent No. 6,780,652). Claims 45 and 46 have been canceled and thus, the rejection is no longer applicable. Applicants respectfully request that the rejection be withdrawn.

Claims 47 and 48 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lee in view of Yates. The rejection is respectfully traversed.

The Lee and Yates patents share a common assignee with the present application. The Lee and Yates patents can only qualify as 102(e) prior art. Pursuant to 35 U.S.C. § 103(c), the Lee and Yates patents cannot properly be cited in a rejection under 35 U.S.C. § 103(a) in the present application as the Lee and Yates patents and the present application are commonly owned by the same assignee and the Lee and Yates patents can only qualify as prior art under 35 U.S.C. § 102(e)/103(a). A Statement Concerning Common Ownership, as required under MPEP § 706.02(l)(2), is included below.

Statement Concerning Common Ownership

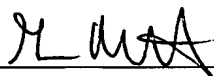
Applicants undersigned attorney states that both the present application and the Lee and Yates patents were, at the time the invention was made, subject to an obligation of assignment to the same person, namely, Micron Technology, Inc.

Applicants respectfully submit that for at least this reason, claims 47 and 48 are allowable over the cited combinations. Accordingly, the rejection should be withdrawn and claims 47 and 48 should be allowed.

In view of the above Amendment, Applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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